

**DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

**MEETING MINUTES – October 10, 2024**

The District of Columbia Board of Ethics and Government Accountability held a hybrid meeting at the Board of Ethics and Government Accountability, 1030 15<sup>th</sup> Street, NW, Suite 700 West, and virtually on October 10, 2024, at 12:00 p.m. Board Member Melissa Tucker chaired the meeting in the absence of Chairperson Norma Hutcheson. Board Members Charles Nottingham, Felice Smith, and Darrin Sobin also participated in the meeting.

Members of the public were welcome to attend, and a recording of the meeting is available on [open.dc.gov](https://open.dc.gov) and [BEGA's YouTube channel](#).

**I. Call to Order**

The meeting was called to order at 12:01 pm.

**II. Ascertainment of Quorum**

The four Board members were present at the start of the meeting.

**III. Adoption of the Agenda/Approval of Minutes**

The Board voted unanimously to adopt the agenda and approved the minutes from the September 2024 meeting.

**IV. Report by the Director of Open Government**

Good afternoon, Presiding Member Tucker and Members of the Board of Ethics and Government Accountability. I am Niquelle Allen, Director of Open Government. I am pleased to present this report on the activities of the Office of Open Government (“OOG”). Our mission is to ensure that all persons receive full and complete information concerning the affairs of the District of Columbia government and the actions of its officials. Since the last Board meeting, OOG has continued its work to ensure that District of Columbia government’s operations are transparent, open to the public, and promote civic engagement. To that end, OOG has enforced the Open Meetings Act, advised on the Freedom of Information Act’s requirements, and provided training on those transparency laws. OOG proudly served as advocates for an open and transparent government.

**A. Open Meetings Act (“OMA”) and Freedom of Information Act (“FOIA”) Advice**

1. Advisory Opinions

I have not issued an advisory opinion since the Board’s last meeting.

## 2. Formal Legal Advice

On October 2, 2024, OOG issued a D.C. FOIA Proactive Disclosure Checklist to assist FOIA Officers with their duties. D.C. Official Code § 2-536 (b) requires agencies to make certain records public and “available on the Internet.” OOG sent a reminder to FOIA Officers to check their agency’s website to verify compliance with this requirement and bring the agency into compliance if the information is not available.

## 3. Informal Advice

Since the last Board meeting, OOG has responded informally, via e-mail, telephone, or teleconference to requests for assistance as follows:

- 4 requests for OMA advice;
- 6 requests for FOIA advice; and
- 11 requests for technical assistance with open-dc.gov.

## **B. Meeting Monitoring**

OOG’s staff attends public bodies’ meetings, in person and remotely, to ensure compliance with the OMA. They also inspect public bodies’ websites and OOG’s Central Meeting Calendar for public meeting notices and records. OOG attorneys provide legal advice on OMA compliance and take corrective action if necessary.

During September 2024, OOG’s legal staff attended 15 public body meetings. As a result of the monitoring, OOG did not issue any corrective measures.

## **C. Training/Outreach**

### 1. Center for Creative Leadership at Eckerd College’s Leadership Development Program

September 8-13, 2024, I attended the Leadership Development Program, which is a 5-day intensive course on the principles and practices of effective leadership at Eckerd College in St. Petersburg, Fl. My cohort included 12 leaders from all over the United States. The LDP Program covered the following: How to enhance impact by building self-awareness and agility • Methods for accelerating team performance • Techniques for giving and receiving effective feedback • Tools for developing resilience and leveraging their many roles and intersecting identities • Skills for building trust and leading with authenticity in a diverse and changing world • Ways to elevate equity, activate diversity, and lead inclusively. The LDP program enabled me to gain a clear perspective on who I am as a leader, and it helped me to find balance to thrive in personal and professional environments.

2. Updated Electronic Records General Schedule

On September 11, 2024, Attorney Anthony J. Scerbo attended the Updated Electronic Records General Schedule training. This training covered the DC General Record Schedule, last updated in 2012, which now reflects up-to-date uses of technology, including reflecting the widespread use of social media by agencies to engage with the public.

3. Artificial Intelligence (AI) Public Listening Session

On September 13, 2024, Attorney Scerbo attended the first Artificial Intelligence (AI) Public Listening Session of the Mayor's Artificial Intelligence Values Advisory (AIVA) Task Force on behalf of the Director of Open Government. The session was virtual. As the District navigates the rapidly evolving landscape of artificial intelligence, it is important that we hear from all stakeholders and hear what the public has to say about AI. Additionally, there was an AI Briefing, and a moderated discussion with the Co-Chairs, Deputy Mayor for Education, Paul Kihn, and the AI Task Force.

4. DC Bar Artificial Intelligence (AI) Summit

On September 16, 2024, Attorney Scerbo attended the DC Bar Artificial Intelligence (AI) Summit, exploring how the legal profession can maximize use of AI technology while recognizing the ethical issues surrounding it.

5. Meeting with the Mayor of the District of Columbia's General Counsel, Betsy Cavendish

On September 18, 2024, OOG held a lunch meeting with the Mayor of the District of Columbia's General Counsel, Betsy Cavendish, and her legal staff at BEGA's offices. OOG's attorneys and paralegal provided presentations on FOIA, OMA, and the office's activities. We provided a tour of our facility after the meeting.

6. Society of Corporate Compliance and Ethics 23<sup>rd</sup> Annual Compliance & Ethics Institute Conference

From September 22– 25, 2024, the Society of Corporate Compliance and Ethics (SCCE) held its 23<sup>rd</sup> Annual Compliance and Ethics Conference in Grapevine, TX. The conference included a virtual attendance option. Chief Counsel Neal, Attorney Lewis, and Attorney Lelma attended the SCCE conference in-person. Director Allen and Paralegal Brown attended the conference virtually. The conference included a variety of learning tracks on regulatory trends, program management insights, professional skills for compliance practitioners, and more. OOG team members attended 44 training courses and a list of the courses, including details regarding which members attended, is included in Dropbox for your information.

7. Mayor’s Cabinet Meeting

On September 25, 2024, Director Allen attended the Mayor of the District of Columbia’s Cabinet meeting. The meeting was held at the Washington Post. There was a presentation by members of the of the media. The meeting also included information regarding the FY24 and FY25 budgets and included a homeland security briefing concerning the upcoming election and 2025 Presidential Inauguration.

8. Open Meeting Act Training

On September 26, 2024, Attorney Scerbo conducted “Open Meeting Act Training for the Mayor’s Advisory Commission on Deaf, DeafBlind, and Hard-of-Hearing (ACODDHH (EOM)),” at the Wilson Building. Director Allen attended the training.

9. AI Values Alignment Advisory Group Second Listening Session

On September 26, 2024, the AI Values Alignment Advisory Group (AIVA) convened its second public listening session. Director Allen attended as a member of AIVA. The AI Task Force was present along with members of the public. The listening session was held in the Marion S. Barry Building, Old City Council Chambers. Deputy Mayor for Education, Paul Kihn, gave an overview of the AI solutions currently being used in D.C. Public Schools. Members of the public engaged with AIVA by asking questions about AI in the District and making public statements about their concerns.

10. Americans with Disability Act (ADA) Title I and Title II

On October 3, 2024, I along with Chief Counsel Neal, Attorney Scerbo, Attorney Lewis, Attorney Lelma, and Paralegal Brown attended the Americans with Disability Act (ADA) Title I and Title II BEGA Staff Training presented by the DC Office of Disability Rights. Title I of the training addressed the rights of individuals with disabilities to not be discriminated against by employers. Title II of the training examined the prohibition of discrimination in general against qualified individuals with disabilities. Both segments of the training sessions emphasized the importance of using the appropriate terms when addressing individuals with disabilities and stressed the significance of employers and employees being knowledgeable of their respective rights and obligations.

**D. Litigation and Legislative Update**

1. Litigation

a. DC Open Government Coalition v. District (Case No. 2023-CAB-007251 (D.C. Super. Ct.))

I have previously reported on this case which involves DC Open Government Coalition’s (DCOGC) lawsuit against the District seeking an

accounting of the backlog of public-records requests submitted through the FOIAXpress Public Access Link.

Following the appointment of Judge Milton Lee as Chief Judge of the Superior Court, the case was reassigned to Superior Court Judge Katherine Oler. At a September 13, 2024, status hearing, Judge Oler heard representations from both parties. The parties were unable to reach an agreement regarding the sufficiency of the documents provided by OCTO. DCOGC asked the court to set a briefing schedule for motions for summary judgment. The District opposed this on the basis that no new issues had been raised since the last time the parties had briefed the issue. On September 17, 2024, the Court ordered the DCOGC to provide a supplemental brief explaining to the Court the necessity of new motions for summary judgment and discussing what information the new motions would bring to light that the previously briefed motions and the record did not already include.

In a supplemental brief filed on October 2, 2024, the plaintiffs argued that the District entirely changed the record in the case by filing additional spreadsheets, declarations, and descriptions of the searches it claims to have performed after the Coalition concluded its summary briefing. DCOGC asserted that because the District did not file these materials until after the DCOGC's briefing concluded, it could not brief whether these late-filed documents show that the District performed an adequate search for the records and fully disclosed all non-exempt records responsive to the requests. The DCOGC also filed a Motion for Leave to File First Amended Complaint on October 2, 2024.

The next status hearing is scheduled for November 22, 2024, at 10:30 a.m. The plaintiff's motions are in Dropbox. OOG Staff will continue to monitor.

- b. Gooch v. District (Metropolitan Police Dept.) (Case No. 2023-CAB-002404 (D.C. Super. Ct.))

I have previously reported on this case in which a requester-plaintiff sued the District for records "related to his...conviction." The plaintiff had received partly redacted records.

On July 24, 2024, the District filed a motion for reconsideration of its motion for summary judgment. Following the Court's denial of Defendant's motion, a status hearing was held on September 13, 2024. The parties agreed to work on redactions and the Vaughn Index before the next hearing, which is set for December 4, 2024, at 2:00 p.m.

- c. Leslie Richards v. "D.C. Finance & Treasury" (Case No. 24-CV-0034 (D.C. Ct. of App.); Case No. 2021-CA-003762-B (Super. Ct.))

I have previously reported on this pro se case in which the plaintiff-appellant sought information about a disbursement. The Superior Court dismissed the

complaint because the plaintiff failed to properly serve the District nor state a claim upon which relief could be granted. The requester appealed.

The District filed a motion for summary affirmance of the Superior Court's dismissal on July 8, 2024. On September 30, 2024, the Court issued an order denying the District's motion and filing the motion as its brief. The matter is now awaiting calendaring. OOG staff will continue to monitor.

2. Legislation

a. Act A25-0424 - DC Water Critical Infrastructure Freedom of Information Clarification Amendment Act of 2024

On Sep 12, 2024, the Council of the District of Columbia's Committee on Transportation and the Environment filed the report on Bill 25-424, the "DC Water Critical Infrastructure Freedom of Information Clarification Amendment Act of 2024." On September 17, 2024, the bill passed first reading unanimously, and on October 1, 2024, passed final reading unanimously. The bill is now with the Mayor, who is expected to sign the measure, after which it will go into the 30-day Congressional review period. Thus, we can project a final law date in December or early January, based upon the current Congressional Calendar. With the temporary bill in effect, any DC FOIA advice issued is covered by the temporary legislation in effect and will be permanent once the permanent act takes effect.

The Committee Report, Bill, and Voting Records are all in Dropbox.

**E. Administrative Matters**

1. Parliamentary Procedure Portal: On September 25, 2024, the Office of Open Government debuted a new addition to its training portal, "Chair a Meeting with Confidence." This is a course designed for new and seasoned Board chairs or for anyone presiding over a meeting to use Robert's Rules of Order to efficiently preside over a meeting.

**This concludes the Office of Open Government's October 10, 2024, report. I am happy to answer any questions the Board may have.**

Board Member Sobin congratulated Director Allen on her graduation from the Leadership Development Program.

**V. Report by the Director of Government Ethics**

Good afternoon, Presiding Member Tucker and Members of the Board. I am Ashley Cooks, the Director of Government Ethics. I am pleased to present this report on the activities of the Office of Government Ethics ("OGE").

**A. Update on Status of OGE Operations**

The information reported today regarding OGE’s cases will not reflect any status changes that may occur because of actions taken by the Board during today’s meeting.

| <b>OPEN INVESTIGATIONS BY STATUS</b> |    |
|--------------------------------------|----|
| Open                                 | 60 |
| Open - Negotiations                  | 0  |
| Open - Show Cause Hearing            | 0  |
| Grand Total                          | 60 |

| <b>OPEN "UNDOCKETED MATTERS"</b> |   |
|----------------------------------|---|
| Grand Total                      | 3 |

| <b>PENDING/STAYED INVESTIGATIONS BY STATUS</b> |    |
|--|----|
| Closed - Pending Collection                    | 35 |
| Stayed - Pending DC Superior Court Case        | 2  |
| Stayed - OAG False Claims Act Case             | 0  |
| Stayed - OIG Investigation                     | 5  |
| Stayed - US District Court Case                | 4  |
| Grand Total                                    | 46 |

| <b>REGULATORY MATTERS BY STATUS</b> |     |
|-------------------------------------|-----|
| Closed - Pending Collection         | 36  |
| Open                                | 262 |
| Grand Total                         | 298 |

|                       | <b>Current</b> | <b>Last month</b> | <b>August</b> |
|-----------------------|----------------|-------------------|---------------|
| Investigations Open   | 60             | 63                | 62            |
| Investigations Stayed | 11             | 10                | 13            |

The number of open preliminary and formal investigations includes 8 new matters. The investigative team resolved 13 investigations since the Board last met. This total does not reflect the number of complaints that were dismissed for a lack of jurisdiction. OGE has continued its communications and referrals to the Chief Financial Officer’s Central Collection Unit (“CCU”) for collection of delinquent debts. We continue holding regular meetings with the CCU team.

Later this month, OGE will publish its Quarterly Complaint Report and Ethics Heat map for the fourth quarter of fiscal year 2024. When it is completed, a copy will be placed in the DropBox.

**B. Trainings/Outreach**

1. Professional Development Trainings Attended by Staff

General Counsel Rashee Raj, Chief of Staff Christina Mitchell and I attended the 23rd Annual Compliance & Ethics Institute by the Society of Corporate Compliance and Ethics in Grapevine, Texas. Notable sessions included "Making Your Learning Binge-Worthy: Reimagining Mandatory Compliance," "The Ethics of Remote Work: Compliance and Accountability in a Virtual World," and a plenary session on Modern Slavery and Supply Chains. Other themes included using data to improve compliance programs, DEI, neurodiversity, and how to make training more engaging.

Investigators Ileana Corrales, Rhoda Glasgow, and Tahja Reed attended the Society of Corporate Compliance and Ethics Experienced Investigator Workshop also in Grapevine, Texas. The workshop's primary objective was to get investigators to move past the basic how-to's of investigation and get to the next level of knowledge – the why.

Attorney Advisor Franshun Vann took Trial Evidence 2024 and an Intensive Program-Opening Statements and Closing Arguments Online. Program Support Assistant Naquita Titus attended MS Office 365 Excel Part 2, Managing Your Time so it Doesn't Manage You, and Writing with a Professional Mindset. Ms. Titus and Administrative Officer Tyrell Dow both took Deliverables on Deadline: Mastering Project Tracking Techniques. Investigator Rhoda Glasgow attended BEGA's Local Hatch Act Training, ACA Reporting in Peoplesoft, and Privacy Basics. All OGE staff attended a training on the Americans with Disability Act (ADA) Title 1 and 2 present by Office of Disability Rights.

## 2. Conducted by staff

Since the August Board meeting, OGE conducted eleven trainings. These included two New Employee Orientation Ethics Trainings, October Monthly Ethics and Monthly Hatch Act Trainings, two trainings for the Department of Employment Services, two trainings for the Department of Parks and Recreation, a DC One Fund training for the Executive Office of the Mayor, a customized scenario-based training for the Department of Disability Services, and the September Ethics Counselor Brown Bag Session.

On Monday, September 30<sup>th</sup>, Attorney Advisor Maurice Echols presented the September Ethics Counselor Brown Bag Session. This session offered annual guidance on DC One Fund. Eighteen ethics counselors attended and asked questions. A copy of the presentation was placed in the DropBox.

During the month of September, 102 employees completed ethics training using PeopleSoft and 9 employees were added to the Learning Management System.

## 3. Outreach



OGE is in the final planning stages of our annual conference, Ethics Week 2024, which will take place next week, October 15-18. This year's theme is "Empowered by Ethics", and the courses are designed to provide attendees with knowledge and ways to apply ethics and open government rules. The first two days of the conference will take place at our office, but the remaining days will be virtual. We plan to offer new courses such as Common Ethics Violations: Learn Them and Avoid Them, a Recusal Workshop, and a Fireside Chat: Journalism and Ethics, as well as traditional courses such as Parliamentary Procedure and Being Ethical is Harder Than You Think. A copy of the most recent schedule was published on the website and placed in the Dropbox for your review.

Lastly, OGE will publish the fifth issue of its bi-monthly newsletter, Ethically Speaking, on October 16<sup>th</sup>. A copy will be placed in the Dropbox for you next month.

**C. Advisory Opinions/Advice**

1. Informal Advice

OGE's legal staff provided advice for approximately 32 ethics inquiries, which is 34 less than the 66 reported at the last Board meeting. This number does not include responses we have provided to questions regarding the Lobbyist and FDS e-filing systems.

2. Formal Advisory Opinions

As mentioned last month, three advisory opinions were published on July 12, 2024, for a 30-day comment period. We have received several comments on the advisory opinion concerning Advisory Neighborhood Commissioner Sign-on Letters. This advisory opinion responds to the Office of Advisory Neighborhood Commissions' request for advice on the parameters around the drafting, circulating, and sending of sign-on letters by Advisory Neighborhood Commissioners. This advisory opinion is still in edit, and we intend to repost with another comment period.

The other two advisory opinions mentioned last month, titled "Guidance on Social Media use for Official Purposes by District Government Elected Officials and District Government Employees" and "Post-employment – Attorney Appearance Advisory Opinion," were sent to the D.C. Register and published on Friday, September 20, 2024.

**D. Legislation and Rulemaking Updates**

1. Financial Disclosure Rulemaking

On September 27th, BEGA's rulemaking which designates certain board and commission members as public financial disclosure statements filers, was finalized in the D.C. Register. OGE has drafted another financial disclosure rulemaking which addresses technical and minor substantive changes to the

financial disclosure regulations. This rulemaking will provide clarity for regulations that are ambiguous and corrects language that aligns with the Ethics Act and Chapter 18 of the District Personnel Regulations.

**E. OGE Administrative Matters**

1. Attorney Advisor Vacancy

OGE is excited to introduce our newest Attorney Advisor, Brenda Keels. Ms. Keels started on September 23rd and comes to us from the Executive Office of the Mayor. Ms. Keels is a graduate of Bennett College in Greensboro, North Carolina, where she earned her undergraduate degree before continuing her studies in African Studies at the University of North Carolina at Greensboro, focusing on the African diaspora. She went on to earn her JD from Catholic University of America School of Law and her LL.M. from Georgetown University Law Center. Growing up in Washington, DC, Brenda developed a deep commitment to public service. With a strong background in education, she served as a Teach for America Corps member, a Special Education Teacher in DC' Jail's Incarcerated Youth Program, Law/ Teaching Fellow in the Georgetown Law Street Law Clinic. Please join me in welcoming Brenda to OGE.

**F. Financial Disclosure Statement (FDS)**

Pursuant to D.C. Official Code §§ 1-1162.24 and 1-1162.25, public officials and certain government employees must file a financial disclosure statement as a means of transparency and to prevent engaging in conduct that violates the financial conflicts of interest statute. BEGA is responsible for ensuring that employees and public officials, who meet the statutory requirement, file their annual financial disclosure statement.

The FDS team has begun enforcement measures for those filers who did not submit their statement in a timely manner. A fine notice was sent to these individuals on August 9, 2024, and the list of current employees has been shared with OPRS for the processing of garnishments.

Councilmembers' next biannual filings are due on November 15<sup>th</sup>. Reminder letters will be delivered to Councilmembers and their staff on October 15, 2024.

**G. Lobbying Registration and Reporting (LRR)**

Pursuant to D.C. Official Code § 1-1162.27(a), a person who receives compensation or expends funds in an amount of \$250 or more in any 3-consecutive-calendar-month period for lobbying shall register with the Director of Government Ethics and pay the required registration fee. According to D.C. Official Code § 1-1162.30, each registrant shall file a quarterly report concerning the registrant's lobbying activities during the previous quarter.

On September 13th, the LRR Team sent 895 registrants and clients notice that the 2024 Quarter 3 Activity Reports are due October 15<sup>th</sup>. The notice included the new fee and late penalty fee structures. On September 27 and 30, the LRR team sent reminders and a press release to the registrants and clients.

Attorney Advisor Maurice Echols and Program Coordinator Stan Kosick gave their quarterly LRR Training on September 25<sup>th</sup> to 22 attendees. Lastly, Auditor Courtney Walker completed audits of BEGA's Lobbyist Activity Reports for Q4-2022 through Q4-2024.

## **H. Public Investigations**

1. 24-0009-F In re Aretha Chapman – This is a formal investigation based on allegations that the Respondent violated the outside employment restrictions by working 5 or 6 hours per day but claiming 8 or 9 hours on her timesheet; violated the government property restrictions by obtaining confidential information under false pretenses; and violated the prohibition on using public office for private gain by using her status as DC Public School employee to obtain confidential information. A hearing is scheduled for November 14-15, 2024.

2. 24-0010-F In re Marcellus Willis – This is a formal investigation based on a complaint that the Respondent, former employee of the University of the District of Columbia, used a government purchase card to make unauthorized purchases. Respondent worked at UDC for five years and was responsible for handling procurement for the University. The Board approved a Notice of Violation which contains assertions that Respondent violated DPM § 1800.3(g) by using public office for private gain and DPM § 1808.1 by failing to protect and conserve government property. A public hearing is scheduled for March 6-7, 2025.

## **Thank you. This concludes the Office of Government Ethics' October 10, 2024, report.**

Board Member Sobin commented that when he was asked what the issues were as it came to trending ethics violations before BEGA at his confirmation hearing, he stated that employees having second jobs was probably the biggest issue for the agency. Board Member Sobin noted that, in response to a question from the Councilmember on how BEGA planned to deal with the issue other than investigating potential violations, he advised the Councilmember that BEGA wanted to be proactive to address the issue and inform people through education and other means that this could even be a potential criminal violation. He noted that at the DC Bar, when a recent Court of Appeals decision was contrary to advice the bar was providing, they issued an Ethics Alert over email to explain the changes in the law and suggested that OGE consider issuing something similar on this specific issue. Director Cooks stated that BEGA has training initiatives in process to target outside employment violations including a course for ethics week and that we are also planning to partner with Mayor's office to create a course on outside employment.

Board Member Tucker stated that she was looking forward to Ethics Week and commended staff on the program.

## **VI. Public Comment – if received**

The Board received one comment from a member of the public.

## **VII. Executive Session (nonpublic)**

The Board voted unanimously to enter into Executive Session to discuss ongoing, confidential investigations pursuant to D.C. Official Code § 2-575(b)(14), to consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body pursuant to D.C. Official Code § 2-575(b)(4)(A), to discuss personnel matters including the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials pursuant to D.C. Official Code § 2-575(b)(10), and to deliberate on a decision in which the Ethics Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13).

## **VIII. Resumption of Public Meeting**

The meeting resumed at 1:28 pm

The Board voted to remove the stay in matter **24-0007-F In re Marc Davis**. The Board approved a Notice of Proposed Rulemaking to amend the financial disclosure regulations.

The Board will next meet on November 14, 2024, at 12:00 p.m.

The meeting adjourned at 1:29 pm.